REMARKS

In the Office Action, the Examiner rejected claim 1 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,728,518 to *Scrivens et al.*; rejected claim 3 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,787,166 to *Ullman*; rejected claims 13, 16, 21 and 24 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,519,448 to *Dress et al.* ("*Dress* "); rejected claim 2 under 35 U.S.C. § 103(a) as being unpatentable over *Scrivens* in view of U.S. Patent No. 6,361,452 to *Tien et al.*; and rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over *Ullman* in view of U.S. Patent No. 4,484,029 to *Kenny*.

By this Amendment, Applicant has amended claims 13 and 21 to further clarify the invention. Claims 1-12, 14-15, 17-20, 22-23, and 25-28 have been cancelled without prejudice or disclaimer of the subject matter recited in these claims. Accordingly, claims 13, 16, 21, and 24 remain pending and under current examination.

At the outset, Applicant notes that in response to the Restriction Requirement mailed June 16, 2005, and the Notice of Non-Compliant Amendment mailed November 28, 2005, Applicant elected a species corresponding to claims 13 and 16 in a response dated January 27, 2006. Thus, at that point, claims 1-28 were pending of which claims 13 and 16 were under examination and claims 1-12, 14, 15, and 17-28 were withdrawn from consideration. Claims 1-4, 13, 16, 21, and 24, however, were considered in the outstanding Office Action. Applicant, therefore, assumes that the Examiner withdrew the restriction requirement with respect to claims 1-4, 21 and 24.

Applicant respectfully traverses the rejection of claim 1 under 35 U.S.C. § 102(a) as being anticipated by *Scrivens*, the rejection of claim 3 under 35 U.S.C. § 102(b) as being anticipated by *Ullman*, the rejection of 2 under 35 U.S.C. § 103(a) as being unpatentable over *Scrivens* in view *Tien*; and the rejection of claim 4 under 35 U.S.C. § 103(a) as being unpatentable over *Ullman* in view of *Kenny*. Applicant further notes that these rejections are moot in light of the cancellation of claims 1-4.

Furthermore, Applicant respectfully traverses the rejection of claims 13, 16, 21, and 24 under 35 U.S.C. § 102(e). In order for *Dress* to anticipate Applicant's claimed invention under Section 102(e), each and every element of each claim in issue must be found, either expressly described or under principles of inherency, in the reference. Further, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." (*See* M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).)

As amended, independent claim 13 recites, *inter alia*, "an audio player and a pair of left and right headphones connected to said audio player via a wireless digital data transmission channel, said audio player comprising: a transmitter configured to transmit left and right digital music data to the left and right headphones, and each of said left and right headphones comprising: a receiver configured to receive the left and right digital music data transmitted from said audio player; and a data extracting section configured to extract one of the left and right digital music data received by said receiver" (emphasis added). *Dress* fails to disclose, at least, these features of claim 13.

Dress apparently discloses a transceiver-receiver system including a base unit 100 that transmits an audio-in signal received via a connector 108 to earphones 200. (*See, e.g.,* FIG. 2 and Col. 6:1-28.) *Dress*, however, merely provides a transmitter 160 including analog components such as, a shared frequency synthesizer 170, a modulator 180 and an RF amplifier 162 which are analog components (*see, e.g.,* Col. 7:26-40) and is silent with regard to "a wireless digital data transmission channel" or "digital music data," as recited in claim 13. *Dress*, therefore, also fails to teach "transmit[ting] left and right digital music data," "receiv[ing] the left and right digital music data," and "extract[ing] one of the left and right digital music data" (emphasis added), as recited in amended claim 13. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of claim 13 under 35 U.S.C. § 102(e) and allow the claim, as well as claim 16, which is also allowable at least due to its dependence from claim 10.

Moreover, although *Dress* discloses an "alternate method that relies on digital synthesis of frequency in the base unit 100 and communication of a digital code for said frequency to earphones 200," such communication is over contact 101 of base unit 100 and contact 201 in the earphone 200. (Col. 9, lines 21-24; col. 9, lines 42-48.) Contacts 101 and 201 mate with one another (col. 6, lines 16-20) and do not constitute a wireless link. Accordingly, *Dress* fails to teach the claimed "a wireless digital data transmission channel" or "digital music data," for this additional reason.

Independent claim 21, while of different scope, recites features similar to those recited in claim 13. For example, claim 21 recites, in part, "an audio player and a pair of left and right headphones connected to said audio player via a wireless digital data

transmission channel, said audio player comprising a transmitter configured to transmit left and right digital music data to the left and right headphones" (emphasis added). Accordingly, claim 21 is allowable at least for reasons discussed above in regard to claim 13 and claim 24 is allowable at least due to its departure from claim 21.

Conclusion

In view of the foregoing, Applicant respectfully requests the reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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